**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**TESTAMENTARY AND INTESTATE JURISDICTION**

**MISCELLANEOUS PETITION NO.36 OF 2000**

**IN**

**PETITION NO.757 OF 1994**

K. Jayendran alias K. Jayendran ...Petitioner

v/s

K. Harindran alias K. Harindran ...Respondent

Mr P.M.A. Nair for Petitioner.

Mr B.G. Saraf for Respondent.

**CORAM : D.K. DESHMUKH J.**

**DATE : 23RD JUNE 2006.**

**P.C.** :-

1. By this petition, the petitioner seeks an order against the respondent directing him to issue citation to file inventory and accounts and also to make certain payment to the petitioner. When asked as to under which provision he has filed this petition, the learned counsel appearing for petitioner informed that he has filed petition under section 317 of the Indian Succession Act. Provisions of section 317 shows that it deals with duty cast on executor or administrator in whose favour probate or letter of administration is granted. It casts duty on him to file inventory and accounts within six months from the grant of probate. It grants power to the Court to enlarge the time for complying with the duty, obviously such a power can be exercised by the Court for enlargement of time at the instance of executor and not at the instance of a person who is not executor. If the executor fails in his duty, he may be liable for any action against him, but the application for that purpose under section 317 against a person who is not executor would not be maintainable.

Petition is therefore disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.

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